IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Income Tax Appeal No. 564 of 2001

1. The Commissioner of Income Dehradun.

2. Deputy Commissioner of Income Tax, Special Circle, Dehradun.

…Appellants

Versus

Hughes Services (FE) Pvt. Ltd.
as Agent of Mr. Ogg R.G.,
C/o G.C. Nagalia (Advocate),
20 - A, New Road, Dehradun.

….Respondent.

Hon'ble M.M. Ghildiyal, J.
Hon'ble B.S. Verma, J.:

Heard Sri S. K. Posti, learned counsel for the appellant and Sri Arvind Vashisth, learned counsel for the respondent.

The present appeal is filed against the judgment and order dated 13.03.2001 passed by Income Tax Appellate Tribunal in ITA No. 1776/ D /1994 pertaining to the assessment year 1991 – 92. In this appeal, we required to answer following questions:

"Whether on the facts and circumstances of the case ITAT was legally justified in holding that substance allowance comprising free boarding facility provided by the employer on board the rig in high seas cannot be constructed to be perquisite?

Whether on the facts and circumstances of the case ITAT the legally justified in directing the AO to charge interest under Section 234 B of the IT Act on the tax on total income declared in the return where as this interest is chargeable on the assessed tax as

defined by explanation I below Section 234 B which also stands amended by the Finance Act 2001 with retrospective effect from 01.04.1989?

Whether on the facts and circumstances of the case the Tribunal erred in law for holding off period salary was taxable in India under Section 19 (1) (ii) of the Income Tax Act?

The first and second questions have been decided by this court in the case of Commissioner of Income Tax and another Vs. Sedco Forex, reported in Volume 264 ITR page 320. The question was answered in favour of the assessee and against the Department. The third question has also been decided by Hon'ble Apex Court reported in JT 2005 (9) SC 639 (Sedco Forex International Drill Inc. and others Vs. Commissioner of Income Tax, Dehradun and Anr.). The answer is in favour of assessee and against the department.

Following the above mentioned judgments, the questions are decided accordingly.

In view of the above, the appeal is disposed of. No order as costs.

(B. S. Verma, J) **(M.M. Ghildiyal, J.)**

December 23, 2005
SKSharma